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4 DANIEL RAY LOYD,  
5 Petitioner,  
6 v.  
7 NEIL McDOWELL,  
8 Respondent.

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10 Case No. 20-cv-07695-HSG  
11  
12 **ORDER ADMINISTRATIVELY  
CLOSING CASE**

13 Petitioner, a state prisoner incarcerated at High Desert State Prison, has filed a *pro se*  
14 petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging a 2016 Lake County  
15 Superior Court conviction for first-degree murder, use of a firearm, being a felon in possession of  
16 a firearm, attempted robbery and the sentence of life without parole. Dkt. No. 1 at 1. Petitioner  
17 initially filed the petition in the Central District of California.<sup>1</sup> On October 26, 2020, the Central  
18 District of California transferred this action to this district, finding that venue for this action was  
19 proper in the district of Petitioner's conviction, specifically the Northern District of California.  
20 Dkt. No. 4. Petitioner already has a habeas petition pending in the Northern District, C No. 18-cv-  
21 7228 HSG, *Loyd v. Spearmen* ("Loyd I"), that also challenges the same conviction. See *Loyd I*,  
22 Dkt. No. 1 at 1. When a *pro se* petitioner files a new petition in the district court while an earlier-  
23 filed petition is still pending, the district court must construe the new petition as a motion to  
24 amend the pending petition rather than as an unauthorized second or successive petition. *Woods v.*  
25 *Carey*, 525 F.3d 886, 887–90 (9th Cir. 2008).

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27 <sup>1</sup> At the time that Petitioner commenced this action, he was incarcerated at Ironwood State Prison,  
28 which is located in Blythe, California, which is in the Central District of California. See Dkt. No.  
1 at 1.

1           Accordingly, the Court orders as follows.

2           1.       The instant action, case number 4:20-cv-07695-HSG (PR), is administratively  
3           CLOSED.

4           2.       Petitioner's request for leave to proceed *in forma pauperis* is DENIED as moot.  
5           Dkt. No. 7.

6           3.       The Clerk of the Court is directed to construe the instant petition (Dkt. No. 1) as a  
7           motion for leave to amend. The Clerk shall file the instant petition (Dkt. No. 1) in C No. 18-cv-  
8           7228 HSG, *Loyd v. Spearmen*.

9           4.       The Clerk of the Court shall terminate all pending motions in this action and  
10           administratively close this action.

11           This order terminates Dkt. No. 7.

12           **IT IS SO ORDERED.**

13           Dated: 11/9/2020

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15           HAYWOOD S. GILLIAM, JR.  
16           United States District Judge

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United States District Court  
Northern District of California